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Protracted conflicts in the GUAM area and their implications for international peace, security and development

The situation in the occupied territories of Azerbaijan

Identical letters dated 24 May 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General and the President of the Security Council

Further to the letter of the Minister for Foreign Affairs of the Republic of Azerbaijan, Elmar Mammadyarov, dated 18 May 2016, on the recent escalation of the situation at the line of contact of the armed forces of Armenia and Azerbaijan and the border between the two States, I would like to draw your attention to the latest gross violation by the armed forces of the Republic of Armenia of the ceasefire agreement of 5 April 2016, reached in Moscow between the Chiefs of the General Staff of the Armed Forces of the Republic of Azerbaijan and the Republic of Armenia, with the assistance of Chief of General Staff of the Armed Forces of the Russian Federation.

The armed forces of Armenia, while concentrating additional forces and military equipment at the line of contact, shelled Askipara village of the Tartar region of Azerbaijan using a phosphorus bomb that coincidentally missed its prime target. The bomb landed on cultivated cotton fields and was found as an unexploded ordinance by the Azerbaijan National Agency for Mine Action on 10 May 2016. It should be noted that this case was observed and documented on 11 May 2016 during the visit to Askipara village of 20 representatives and military attachés from 13 countries, as well as field assistants of the Personal Representative of the Chairperson-in-Office of the Organization for Security and Cooperation in Europe (OSCE) on the conflict dealt with by the OSCE Minsk Conference (see annex).

In accordance with general international humanitarian law, attacks on civilians or civilian objects or attacks on forests or other kinds of plant cover (like the cultivated area in Askipara village) with white phosphorus shells are prohibited under the Protocol on Prohibitions or Restrictions on the Use of Incendiary

Weapons (Protocol III) of the United Nations Convention on Prohibitions or Restrictions of Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

I would like to highlight that Armenia, with the intentional strike against civilian objects of Azerbaijan using high explosive white phosphorous, grossly violates its obligations under international humanitarian and human rights law, such as the 1949 Geneva Conventions, in particular the Fourth Geneva Convention. A weapon containing white phosphorus can also qualify as an "incendiary weapon or device" under the 1997 International Convention for the Suppression of Terrorist Bombings, to which Armenia acceded in 2004. Alongside the Republic of Armenia's responsibility as a State for internationally wrongful acts, violations by Armenia of international humanitarian and human rights law during the conflict amount to crimes under international criminal law.

In this respect, we reiterate our appeal to the international community to condemn Armenia for such blatant violation of international law and the ceasefire regime, to demand strict compliance by Armenia with the 5 April 2016 ceasefire commitments and to engage constructively in substantive talks on the withdrawal of the armed forces of Armenia from the occupied territories of Azerbaijan.

I would appreciate it if the present letter and its annex were circulated as a document of the General Assembly, under agenda items 35 and 40, and of the Security Council.

(*Signed*) Khanum **Ibrahimova**
Chargé d'affaires a.i.

Annex to the identical letters dated 24 May 2016 from the Chargé d'affaires a.i. of the Permanent Mission of Azerbaijan to the United Nations addressed to the Secretary-General and the President of the Security Council

Statement on the use of white phosphorus bomb by the armed forces of Armenia against civilians and civilian objects of Azerbaijan

In recent escalations and offensive actions starting 2 April 2016, the armed forces of Armenia, in numerous instances of deliberate shelling on civilians and civilian objects of Azerbaijan with artillery and large-calibre weapons, have also used shells containing chemicals such as white phosphorus.

One such projectile was shelled on Askipara village of the Tartar region of Azerbaijan, coincidentally missing its prime target and landing on a cultivated cotton field, and was found as an unexploded ordinance by the Azerbaijan National Agency for Mine Action on 10 May. If it had landed on the densely populated part of Askipara village, the projectile would have inflicted serious casualties and injuries among the civilians.

Military attachés of foreign embassies accredited in Azerbaijan have been immediately informed of the fact of usage of such a weapon by Armenia against Azerbaijani civilians. This case was observed and well documented on 11 May 2016, during the visit to Askipara village of 20 representatives and military attachés from 13 countries, as well as field assistants of the Personal Representative of the Chairperson-in-Office of the Organization for Security and Cooperation in Europe (OSCE) on the conflict dealt with by the OSCE Minsk Conference.

The investigation has revealed that ammunition, which was fired by the armed forces of Armenia, is a D-4 type (smoke bomb) 122 mm artillery shell. It weighs 27.07 kg and contains 3.6 kg of P-4 (the chemical code of white phosphorus).

The Special Investigation Unit of the Republic of Azerbaijan Military Prosecutor's Office inspected the territory where the shell was found. The Republic of Azerbaijan Military Prosecutor's Office has initiated a criminal case upon this fact under the following articles of Azerbaijan's Criminal Code: articles 29,120.2.7 (attempt to kill two or more people), 29,120.2.12 (attempt to kill on ethnic, racial or religious grounds) and 116.0.16 (use of weapons, means and methods of warfare prohibited by interstate agreements during an armed conflict). A preliminary investigation into the fact is under way in the Republic of Azerbaijan Military Prosecutor's Office.

Witness accounts, photographs of the case (see photographs below), video footage from the defusing of the shell (the explosion emitted a dense white smoke) (see the video link http://mod.gov.az/index2.php?content=news/2016/20160511_attasecebhe), as well as the trajectory of fire, present numerous pieces of evidence that the shell which belonged to Armenia is a white phosphorus bomb and was fired from the nearby positions of the armed forces of Armenia.

It is well known that weapons containing white phosphorus are extremely toxic when inhaled, ingested or absorbed through burned areas and can have severe negative impacts on human health. Such weapons cause severe thermal and

chemical burns of partial to full thickness upon contact with the skin, often down to the bone. Absorbed through the skin white phosphorus can survive long enough in the human body to damage the heart, kidney or liver, leading to multiple organ failure or death.

In accordance with general international humanitarian law, attacks on civilians or civilian objects or attacks on forests or other kinds of plant cover (like the cultivated area in Askipara village) with white phosphorus shells are prohibited under the Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III) of the United Nations Convention on Prohibitions or Restrictions of Use of Certain Conventional Weapons which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects of 1980.

Armenia, with the intentional strike against civilian objects of Azerbaijan using high explosive white phosphorous, grossly violates its obligations under international humanitarian and human rights law, such as the 1949 Geneva Conventions, in particular the Fourth Geneva Convention.

A weapon containing white phosphorus can also qualify as an "incendiary weapon or device" under the 1997 International Convention for the Suppression of Terrorist Bombings, to which Armenia acceded in 2004. The Convention applies to any "explosive or incendiary weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial material damage" or to a weapon that has these effects through toxic chemicals, biological agents, toxins or radiation.

Alongside the Republic of Armenia's responsibility as a State for internationally wrongful acts, violations by Armenia of international humanitarian and human rights law during the conflict amount to crimes under international criminal law.

The Republic of Azerbaijan urges the international community to condemn Armenia for such blatant violations of international law.

White phosphorus bomb shelled by the armed forces of Armenia against civilians and civilian objects of Azerbaijan

Type: D-4 White Phosphorus shell

Detonating fuse: RGM-2

Colour: Khaki or grey

Case: Metallic

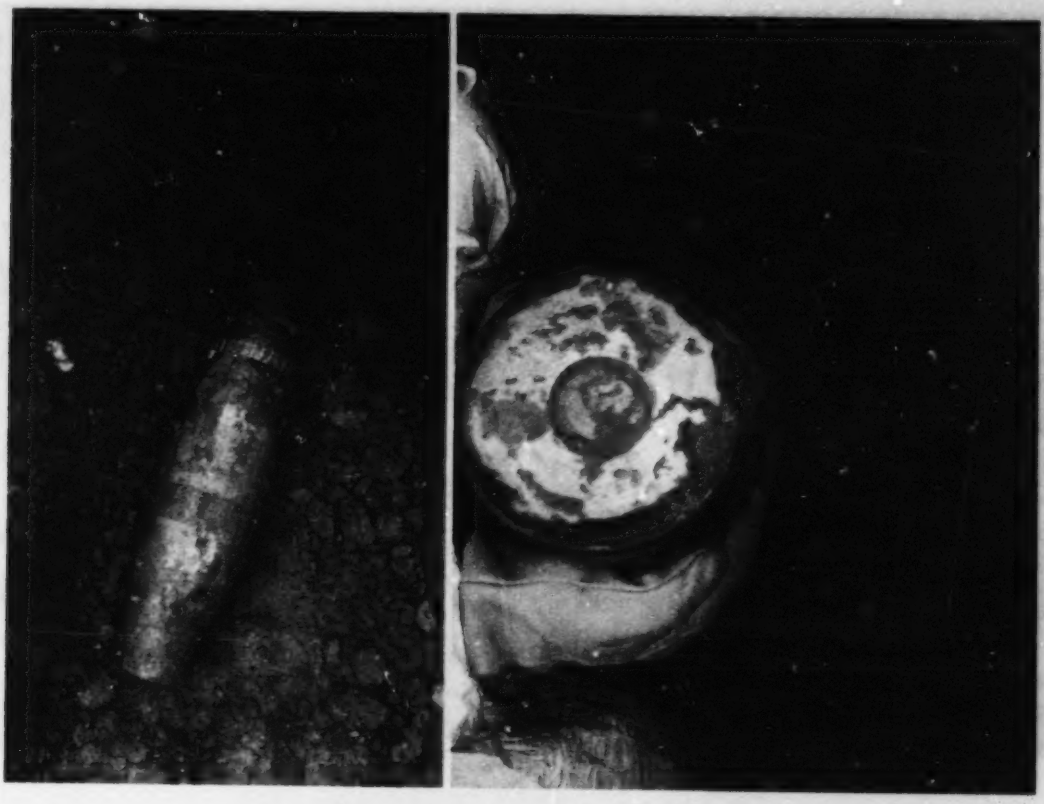
Assignment: Smoke shell

Composition: 3.6 kg of P-4 (chemical code) white or yellow phosphorus

Weight of the explosive: 0.145 kg TNT (trotyl)

Calibre: 122 mm

Length: 496.6 mm



Defuse of the found shell